

parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other generally applicable requirements.

(c) *Authority.* Part 820 is established and issued under authority of sections 501, 502, 510, 513, 514, 515, 518, 519, 520, 522, 701, 704, 801, 803 of the act (21 U.S.C. 351, 352, 360, 360c, 360d, 360e, 360h, 360i, 360j, 360l, 371, 374, 381, 383). The failure to comply with any applicable provision in this part renders a device adulterated under section 501(h) of the act. Such a device, as well as any person responsible for the failure to comply, is subject to regulatory action.

(d) *Foreign manufacturers.* If a manufacturer who offers devices for import into the United States refuses to permit or allow the completion of a Food and Drug Administration (FDA) inspection of the foreign facility for the purpose of determining compliance with this part, it shall appear for purposes of section 801(a) of the act, that the methods used in, and the facilities and controls used for, the design, manufacture, packaging, labeling, storage, installation, or servicing of any devices produced at such facility that are offered for import into the United States do not conform to the requirements of section 520(f) of the act and this part and that the devices manufactured at that facility are adulterated under section 501(h) of the act.

(e) *Exemptions or variances.* (1) Any person who wishes to petition for an exemption or variance from any device quality system requirement is subject to the requirements of section 520(f)(2) of the act. Petitions for an exemption or variance shall be submitted according to the procedures set forth in § 10.30 of this chapter, the FDA's administrative procedures. Guidance is available from the Center for Devices and Radiological Health, Division of Small Manufacturers Assistance (HFZ-220), 1350 Piccard Dr., Rockville, MD 20850, U.S.A., telephone 1-800-638-2041 or 1-301-443-6597, FAX 301-443-8818.

(2) FDA may initiate and grant a variance from any device quality system requirement when the agency determines that such variance is in the best interest of the public health. Such variance will remain in effect only so long as there remains a public health

need for the device and the device would not likely be made sufficiently available without the variance.

[61 FR 52654, Oct. 7, 1996, as amended at 65 FR 17136, Mar. 31, 2000; 65 FR 66636, Nov. 7, 2000]

EFFECTIVE DATE NOTE: At 69 FR 29829, May 25, 2004, § 820.1 was amended by adding two sentences to the end of paragraph (a)(1) and by revising paragraph (b), effective May 25, 2005. For the convenience of the user, the added and revised text is set forth as follows:

§ 820.1 Scope.

(a) *Applicability.* (1) * * * Manufacturers of human cells, tissues, and cellular and tissue-based products (HCT/Ps), as defined in § 1271.3(d) of this chapter, that are medical devices (subject to premarket review or notification, or exempt from notification, under an application submitted under the device provisions of the act or under a biological product license application under section 351 of the Public Health Service Act) are subject to this part and are also subject to the donor-eligibility procedures set forth in part 1271 subpart C of this chapter and applicable current good tissue practice procedures in part 1271 subpart D of this chapter. In the event of a conflict between applicable regulations in part 1271 and in other parts of this chapter, the regulation specifically applicable to the device in question shall supersede the more general.

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(b) The quality system regulation in this part supplements regulations in other parts of this chapter except where explicitly stated otherwise. In the event of a conflict between applicable regulations in this part and in other parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other generally applicable requirements.

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§ 820.3 Definitions.

(a) *Act* means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201-903, 52 Stat. 1040 *et seq.*, as amended (21 U.S.C. 321-394)). All definitions in section 201 of the act shall apply to the regulations in this part.

(b) *Complaint* means any written, electronic, or oral communication that alleges deficiencies related to the identity, quality, durability, reliability, safety, effectiveness, or performance of a device after it is released for distribution.

(c) *Component* means any raw material, substance, piece, part, software, firmware, labeling, or assembly which is intended to be included as part of the finished, packaged, and labeled device.

(d) *Control number* means any distinctive symbols, such as a distinctive combination of letters or numbers, or both, from which the history of the manufacturing, packaging, labeling, and distribution of a unit, lot, or batch of finished devices can be determined.

(e) *Design history file (DHF)* means a compilation of records which describes the design history of a finished device.

(f) *Design input* means the physical and performance requirements of a device that are used as a basis for device design.

(g) *Design output* means the results of a design effort at each design phase and at the end of the total design effort. The finished design output is the basis for the device master record. The total finished design output consists of the device, its packaging and labeling, and the device master record.

(h) *Design review* means a documented, comprehensive, systematic examination of a design to evaluate the adequacy of the design requirements, to evaluate the capability of the design to meet these requirements, and to identify problems.

(i) *Device history record (DHR)* means a compilation of records containing the production history of a finished device.

(j) *Device master record (DMR)* means a compilation of records containing the procedures and specifications for a finished device.

(k) *Establish* means define, document (in writing or electronically), and implement.

(l) *Finished device* means any device or accessory to any device that is suitable for use or capable of functioning, whether or not it is packaged, labeled, or sterilized.

(m) *Lot or batch* means one or more components or finished devices that consist of a single type, model, class, size, composition, or software version that are manufactured under essentially the same conditions and that are intended to have uniform characteristics and quality within specified limits.

(n) *Management with executive responsibility* means those senior employees of

a manufacturer who have the authority to establish or make changes to the manufacturer's quality policy and quality system.

(o) *Manufacturer* means any person who designs, manufactures, fabricates, assembles, or processes a finished device. Manufacturer includes but is not limited to those who perform the functions of contract sterilization, installation, relabeling, remanufacturing, repackaging, or specification development, and initial distributors of foreign entities performing these functions.

(p) *Manufacturing material* means any material or substance used in or used to facilitate the manufacturing process, a concomitant constituent, or a byproduct constituent produced during the manufacturing process, which is present in or on the finished device as a residue or impurity not by design or intent of the manufacturer.

(q) *Nonconformity* means the non-fulfillment of a specified requirement.

(r) *Product* means components, manufacturing materials, in-process devices, finished devices, and returned devices.

(s) *Quality* means the totality of features and characteristics that bear on the ability of a device to satisfy fitness-for-use, including safety and performance.

(t) *Quality audit* means a systematic, independent examination of a manufacturer's quality system that is performed at defined intervals and at sufficient frequency to determine whether both quality system activities and the results of such activities comply with quality system procedures, that these procedures are implemented effectively, and that these procedures are suitable to achieve quality system objectives.

(u) *Quality policy* means the overall intentions and direction of an organization with respect to quality, as established by management with executive responsibility.

(v) *Quality system* means the organizational structure, responsibilities, procedures, processes, and resources for implementing quality management.

(w) *Remanufacturer* means any person who processes, conditions, renovates, repackages, restores, or does any other

act to a finished device that significantly changes the finished device's performance or safety specifications, or intended use.

(x) *Rework* means action taken on a nonconforming product so that it will fulfill the specified DMR requirements before it is released for distribution.

(y) *Specification* means any requirement with which a product, process, service, or other activity must conform.

(z) *Validation* means confirmation by examination and provision of objective evidence that the particular requirements for a specific intended use can be consistently fulfilled.

(1) *Process validation* means establishing by objective evidence that a process consistently produces a result or product meeting its predetermined specifications.

(2) *Design validation* means establishing by objective evidence that device specifications conform with user needs and intended use(s).

(aa) *Verification* means confirmation by examination and provision of objective evidence that specified requirements have been fulfilled.

§ 820.5 Quality system.

Each manufacturer shall establish and maintain a quality system that is appropriate for the specific medical device(s) designed or manufactured, and that meets the requirements of this part.

Subpart B—Quality System Requirements

§ 820.20 Management responsibility.

(a) *Quality policy*. Management with executive responsibility shall establish its policy and objectives for, and commitment to, quality. Management with executive responsibility shall ensure that the quality policy is understood, implemented, and maintained at all levels of the organization.

(b) *Organization*. Each manufacturer shall establish and maintain an adequate organizational structure to ensure that devices are designed and produced in accordance with the requirements of this part.

(1) *Responsibility and authority*. Each manufacturer shall establish the appro-

priate responsibility, authority, and interrelation of all personnel who manage, perform, and assess work affecting quality, and provide the independence and authority necessary to perform these tasks.

(2) *Resources*. Each manufacturer shall provide adequate resources, including the assignment of trained personnel, for management, performance of work, and assessment activities, including internal quality audits, to meet the requirements of this part.

(3) *Management representative*. Management with executive responsibility shall appoint, and document such appointment of, a member of management who, irrespective of other responsibilities, shall have established authority over and responsibility for:

(i) Ensuring that quality system requirements are effectively established and effectively maintained in accordance with this part; and

(ii) Reporting on the performance of the quality system to management with executive responsibility for review.

(c) *Management review*. Management with executive responsibility shall review the suitability and effectiveness of the quality system at defined intervals and with sufficient frequency according to established procedures to ensure that the quality system satisfies the requirements of this part and the manufacturer's established quality policy and objectives. The dates and results of quality system reviews shall be documented.

(d) *Quality planning*. Each manufacturer shall establish a quality plan which defines the quality practices, resources, and activities relevant to devices that are designed and manufactured. The manufacturer shall establish how the requirements for quality will be met.

(e) *Quality system procedures*. Each manufacturer shall establish quality system procedures and instructions. An outline of the structure of the documentation used in the quality system shall be established where appropriate.

§ 820.22 Quality audit.

Each manufacturer shall establish procedures for quality audits and conduct such audits to assure that the